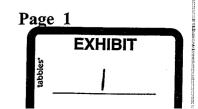
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00001
  1
         IN THE UNITED STATES DISTRICT COURT
        FOR THE NORTHERN DISTRICT OF OKLAHOMA
  2
  3 W.A. DREW EDMONDSON, in his )
  capacity as ATTORNEY GENERAL )
  4 OF THE STATE OF OKLAHOMA and )
  OKLAHOMA SECRETARY OF THE )
 5 ENVIRONMENT C. MILES TOLBERT, )
  in his capacity as the
                       )
 6 TRUSTEE FOR NATURAL RESOURCES)
  FOR THE STATE OF OKLAHOMA )
 7
        Plaintiffs,
 8
                    4:05-CV-00329-TCK-SAJ
  vs.
 9
  TYSON FOODS, INC., et al., )
 10
                  )
        Defendants.
11
                  )
12
13
        VIDEOTAPED DEPOSITION OF KIRK HOUTCHENS
14
        Taken at the law offices of Mitchell, Williams,
15 Selig, Gates & Wooyard, 5414 Pinnacle Point Drive, Suite
16 500, Rogers, Arkansas 72758, on July 26, 2007, at 11:36
17 a.m.
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23
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25
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1 the record.

- 2 MR. RIGGS: I'm sorry. Poultry Water
- 3 Quality Handbook.
- 4 A. What page are you on?
- 5 Q. (Mr. Riggs continued.) 624. Okay. Left-hand
- 6 column near the bottom, it says, "In the poultry industry,
- 7 for example, components of manure, dead birds, and
- 8 wastewater include nutrients that may be released to water
- 9 through direct discharge, excessive runoff from the land,
- 10 or leaching through the soil."
- Do you understand what the term runoff means as used
- 12 in the handbook which your company provided your growers?
- 13 A. Yes.
- 14 Q. Let's look at page 630 of the Poultry Water Quality
- 15 Handbook. There it says -- if I can find the place.
- 16 Under the heading Nutrients and Salts, "Poultry manure is
- 17 a valuable nutrient for grain and fiber crops, forage
- 18 crops, fruit, and vegetables. However, if manure, litter,
- 19 dead birds, (as compost or as buried carcasses) and/or
- 20 wastewater are not properly protected and utilized, water
- 21 contamination can occur from the release of excess
- 22 nitrogen and phosphorus into the environment."
- 23 Do you agree with that statement?
- 24 A. Yes, I do.
- 25 Q. Skipping on down, it says -- it's one full paragraph

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- 1 can't answer that. That's -- that's my job, and I've
- 2 answered that for you.
- Now, we've been at this for an hour and
- 4 you've yet to ask him the question that is listed in the
- 5 topic --
- 6 MR. RIGGS: The topic of what I've been
- 7 asking him about. We need to take a break. We're about
- 8 out of time here.
- 9 THE VIDEOGRAPHER: The time is 2:22. This
- 10 is the end of tape 2. We're off the record.
- 11 (Wherein, a break was taken from 2:22 to 2:36 p.m.)
- 12 THE VIDEOGRAPHER: The time is 2:36. This
- 13 is the beginning of tape 3. We're on the record.
- 14 Q. (Mr. Riggs continued.) Mr. Houtchens, I want to
- 15 direct your attention to one more reference in the Water
- 16 Quality Handbook that Peterson provided its growers. On
- 17 page 644, about the third or fourth paragraph down it
- 18 says, "Phosphorus." Whoops, I'll give you time to find
- 19 it.
- 20 A. Okay.
- 21 Q. Got it? It says, "Phosphorus-laden soil or
- 22 dissolved phosphorus can move via runoff into the rivers,
- 23 lakes and streams, where it causes excessive plant and
- 24 algae growth, which in turn depletes the dissolved oxygen
- 25 content in the water. Phosphorus-enriched waters

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- 1 contribute to fish kills and the premature aging of the
- 2 waterbody. In the end, the beauty and the use of the
- 3 waters are seriously curtailed. Even relatively small
- 4 soil losses may result in significant nutrient depositions
- 5 in the water."
- 6 Do you understand how the word phosphorus is used in
- 7 that context?
- 8 MR. McDANIEL: Object to the form. I think
- 9 we've already stated our objections to the use of the term
- 10 phosphorus.
- 11 Q. (Mr. Riggs continued.) Do you understand how it was
- 12 used in that context?
- 13 A. Yes, I do.
- 14 Q. Do you understand how the word runoff is used in
- 15 that context?
- MR. McDANIEL: I object to the form.
- 17 A. Yes, I do.
- 18 Q. (Mr. Riggs continued.) Do you agree with the
- 19 statement I just read from the Water Quality Handbook?
- MR. McDANIEL: I'll object to the form.
- 21 It's outside the scope of his designation, so Peterson
- 22 Farms isn't going to answer that question.
- 23 Q. (Mr. Riggs continued.) Do you refuse to answer that
- 24 question?
- 25 A. Yes.